

§ 266.608

(2) A deed to the HFA is filed for record;

(3) An application for initial claim payment is received by the Commissioner; or

(4) The Contract of Insurance is otherwise terminated.

(b) *Method of payment.* The HFA shall pay any mortgage insurance premium required by this part in cash.

§ 266.608 Mortgage insurance premium: Pro rata refund.

If the Contract of Insurance is terminated by payment in full or is terminated by the HFA on a form prescribed by the Commissioner, after the date of the first payment to principal, the Commissioner shall refund any mortgage insurance premium for the period after the effective date of the termination of insurance. The refund shall be mailed to the HFA for credit to the mortgagor's account. In computing the pro rata portion of the annual mortgage insurance premium, the date of termination of insurance shall be the last day of the month in which the mortgage is prepaid or the Commissioner receives a notification of termination, whichever is later. No refund shall be made if the insurance was terminated because of the submission of an application for initial claim payment or if the termination occurs before the date of the first payment to principal.

§ 266.610 Method of payment of mortgage insurance premiums.

In the cases that the Commissioner deems appropriate, the Commissioner may require, by means of instructions communicated to all affected mortgagees, that mortgage insurance premiums be remitted electronically.

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INSURANCE ENDORSEMENT

§ 266.612 Insurance endorsement.

(a) *Initial endorsement.* The Commissioner shall indicate his or her insurance of the mortgage by endorsing the original credit instrument.

(b) *Final endorsement.* When all advances of mortgage proceeds have been made and all other applicable terms and conditions have been complied

24 CFR Ch. II (4-1-03 Edition)

with to the satisfaction of the Commissioner, the Commissioner shall indicate on the original credit instrument the total of all advances that have been approved for insurance and again endorse such instrument.

(c) *Effect of endorsement.* From the date of initial endorsement, the Commissioner and the HFA shall be bound by the provisions of this subpart to the same extent as if they had executed a contract including the provisions of this subpart and the applicable sections of the Act.

ASSIGNMENTS

§ 266.616 Transfer of partial interest under participation agreement.

The HFA may not assign the mortgage. However, a partial interest in an insured mortgage or pool of insured mortgages may be transferred under a participation agreement or arrangement (such as a declaration of trust or the issuance of pass-through certificates), without obtaining the approval of the Commissioner, if the following conditions are met:

(a) Legal title to the insured mortgage or mortgages shall be held by the HFA; and

(b) The participation agreement, declaration of trust or other instrument under which the partial interest is transferred shall provide that:

(1) The HFA shall remain mortgagee of record under the contract of mortgage insurance;

(2) The Commissioner shall have no obligation to recognize or deal with anyone other than the HFA with respect to the rights, benefits, and obligations of the mortgagee under the contract of insurance; and

(3) The mortgagor shall have no obligation to recognize or do business with any one other than the HFA or, if applicable, its servicing agent with respect to rights, benefits, and obligations of the mortgagor or the mortgagee under the mortgage.

TERMINATION

§ 266.620 Termination of Contract of Insurance.

The Contract of Insurance shall terminate if any of the following occurs:

(a) The mortgage is paid in full;

(b) The HFA acquires the mortgaged property and notifies the Commissioner that it will not file an insurance claim;

(c) A party other than HFA acquires the property at a foreclosure sale;

(d) The HFA notifies the Commissioner of Termination of Insurance (voluntary termination);

(e) The HFA or its successors commit fraud or make a material misrepresentation to the Commissioner with respect to information culminating in the Contract of Insurance on the mortgage or while the Contract of Insurance is in existence;

(f) The receipt by the Commissioner of an Application for Final Claims Settlement;

(g) If the HFA acquires the mortgaged property and fails to make an initial claim.

§ 266.622 Notice and date of termination by the Commissioner.

The Commissioner shall notify the HFA that the Contract of Insurance has been terminated and shall establish the effective date of termination. The termination shall be the last day of the month in which one of the events specified in § 266.620 occurs.

CLAIM PROCEDURES

§ 266.626 Notice of default and filing an insurance claim.

(a) *Definition of default.* (1) A monetary default exists when the mortgagor fails to make any payment due under the mortgage.

(2) A covenant default exists when the mortgagor fails to perform any other covenant under the provision of the mortgage or the regulatory agreement, which is incorporated by reference in the mortgage. An HFA becomes eligible for insurance benefits on the basis of a covenant default only after the HFA has accelerated the debt and the owner has failed to pay the full amount due, thus converting a covenant default into a monetary default.

(b) *Date of default.* For purposes of this subpart, the date of default is:

(1) The date of the first uncorrected failure to perform a mortgage covenant or obligation; or

(2) The date of the first failure to make a monthly payment that is not

covered by subsequent payments, when such subsequent payments are applied to the overdue monthly payments in the order in which they were due.

(c) *Notice of default.* If a default (as defined in paragraph (a) of this section) continues for a period of 30 days, the HFA must notify the Commissioner within 10 days thereafter, unless the default is cured within the 30-day period. Unless waived by the Commissioner, the HFA must submit this notice monthly, on a form prescribed by the Commissioner, until the default has been cured or the HFA has filed an application for an initial claim payment. In cases of mortgage acceleration, the mortgagee must first give notice of the default.

(d) *Timing of claim filing.* Unless a written extension is granted by HUD, the HFA must file an application for initial claim payment (or, if appropriate, for partial claim payment) within 75 days from the date of default and may do so as early as the first day of the month following the month for which a payment was missed. Upon request of the HFA, HUD may extend, up to 180 days from the date of default, the deadline for filing a claim. In those cases where the HFA certifies that the project owner is in the process of transacting a bond refunder, refinancing the mortgage, or changing the ownership for the purpose of curing the default and bringing the mortgage current, HUD may extend the deadline for filing a claim beyond 180 days, not to exceed 360 days from the date of default.

§ 266.628 Initial claim payments.

(a) *Determination of initial claim amount.* (1) The initial claim amount is based on the unpaid principal balance of the mortgage note as of the date of default, plus interest at the mortgage note rate from date of default to date of initial claim payment. The mortgage note interest component of the initial claim amount is subject to curtailment as provided in paragraph (b) of this section.

(2) HUD shall make an initial claim payment to the HFA that is equal to